

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

ARNOLDO GUTIERREZ

Plaintiff,

VS.

**REUVEN KIGELMAN,
T.P.T. SYSTEMS, INC. and
673753 ONTARIO LIMITED
D/B/A TRAFFIX**

Defendants.

CIVIL ACTION NO. 12-219

DEFENDANTS REUVEN KIGELMAN AND 673753 ONTARIO LIMITED D/B/A TRAFFIX' NOTICE OF REMOVAL

Defendants **REUVEN KIGELMAN** and **673753 ONTARIO LIMITED D/B/A TRAFFIX** file this Notice of Removal pursuant to 28 U.S.C. §1446. Removal is proper in this case because the amount in controversy exceeds \$75,000 and the controversy involves parties of diverse citizenship.

I. INTRODUCTION

1.1 This is a car wreck case. Plaintiff, a Texas citizen, sued defendants, all citizens of Canada, for personal injuries allegedly sustained in an automobile accident that occurred in Virginia.

1.2 On or about January 27, 2012, Plaintiff filed his Original Petition against defendants in the 275th District Court of Hidalgo County, Texas. *See Plaintiff's Original Petition, Ex. A.*

1.3. **673753 ONTARIO LIMITED D/B/A TRAFFIX** was first served with notice of this suit on or about June 14, 2012. Upon information and belief, **REUVEN KIGELMAN** and **T.P.T. SYSTEMS, INC.** have not been served.

1.4 Defendants **REUVEN KIGELMAN** and **673753 ONTARIO LIMITED D/B/A TRAFFIX** file this notice of removal within 30-days after having been served with Plaintiff's Original Petition pursuant to 28 U.S.C. §1446(b)(1).

DSW: 3440407 - NOTICE OF REMOVAL

II. THIS CASE IS REMOVABLE BASED ON DIVERSITY JURISDICTION

2.1 Removal is proper pursuant to 28 U.S.C. §1332(a) because the amount in controversy exceeds \$75,000 and the controversy involves parties of diverse citizenship.

2.2 Plaintiff's Original Petition states that plaintiff is seeking monetary relief aggregating more than \$100,000. *See Plaintiff's Original Petition, Ex. A.*

2.3 Based upon information and belief, plaintiff is an individual, natural person, who is a citizen of Texas. *See Plaintiff's Original Petition, Ex. A.*

2.4 Defendant **REUVEN KIGELMAN** is an individual, natural person, who is a citizen of Canada. **REUVEN KIGELMAN** is a Canadian citizen, resides in Canada, and has an intent to remain in Canada indefinitely. *See Plaintiff's Original Petition, Ex. A., and Affidavit, Ex. B.*

2.5 **673753 ONTARIO LIMITED D/B/A TRAFFIX** is a foreign company, incorporated in Canada, with its principle place of business in Ontario, Canada. *See Plaintiff's Original Petition, Ex. A., and Affidavit, Ex. C.*

2.6 According to Plaintiff's Original Petition, **T.P.T. SYSTEMS, INC.** is also a citizen of Canada. *See Plaintiff's Original Petition, Ex. A.* Nevertheless, the citizenship of a defendant who has been joined but not served can be disregarded for purposes of removal. *See* 28 U.S.C. §1441 (b)(2).

2.7 Defendants **REUVEN KIGELMAN AND 673753 ONTARIO LIMITED D/B/A TRAFFIX** consent to this removal. **T.P.T SYSTEMS, INC.** has not yet been served. Because only those defendants who have been properly joined and served must consent to the removal, **T.P.T SYSTEMS, INC.**'s consent to removal is not necessary at this time. 28 U.S.C. §1446(b)(2)(A).

2.8 All pleadings, process, orders and other filings in this state court action are attached to this notice as required by 28 U.S.C. §1446(a).

2.9 Venue is proper in this district under 28 U.S.C. §1441(a) for this removal action only because the state court where the action has been pending is located in this district.

2.10 Defendants will promptly file a copy of this notice of removal with the clerk of the state court where the action has been pending.

2.11 By filing this notice of removal, defendants are not waiving their right to contest personal jurisdiction or venue.

III. PRAYER

3.1 For the foregoing reasons, defendants **REUVEN KIGELMAN** and **673753 ONTARIO LIMITED D/B/A TRAFFIX** request that the Court remove the action to this Federal Court and place this case on the docket of the United States District Court for the Southern District of Texas, McAllen Division.

Respectfully submitted,

BROCK PERSON GUERRA REYNA, P.C.
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BY: 

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ATTORNEYS FOR DEFENDANTS
**REUVEN KIGELMAN AND 673753 ONTARIO
LIMITED D/B/A TRAFFIX**

DSW: 3440407 - NOTICE OF REMOVAL

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing has been served on this 6th day of July, 2012, to:

VIA CMRRR 7010 0290 0001 4299 8118

VIA FAX 713-666-5922

Paul A. Higdon
Stern, Miller, & Higdon
4909 Bissonnet St., Suite 100
Bellaire, Texas 77401



AUDREY A. HAAKE
DANIEL S. WILLIS